

ORIGINAL



CITY of WALKER

4243 Remembrance Road, N.W.
Walker, Michigan 49544
(616) 453-6311

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FOR

James M. Hatch, City Manager

EX PARTE OR LATE FILED

July 21, 1999

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Ex Parte Letter Re: Cases WT 99-217 CC 96-98

Dear Secretary Salas:

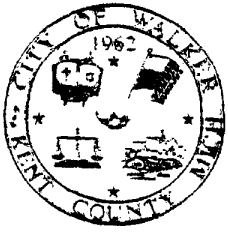
Enclosed are two (2) copies of an ex parte presentation in the above referenced proceeding.

Very truly yours,

James M. Hatch, City Manager
City of Walker

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July 21, 1999

Chairman William Kennard
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Ex Parte Filing in cases WT 99-217/CC 96-98

Dear Chairman Kennard:

Please do not adopt the rule proposed in these cases allowing any phone company to serve any tenant of a building and to place their antenna on the building roof.

In some states, 70 or more new phone companies have been certified to provide service. Add in the wireless phone companies and under your rule you may have 100 companies allowed to place their wires in a building, and their antennas on the roof, all without the landlord's permission.

The FCC lacks the authority to do this. It would violate basic property rights - a landlord, city or condominium has the right to control who comes on their property. Congress did not give the FCC the authority to condemn space for 100 phone companies in every building in the country.

The FCC cannot preempt state and local home rule, building codes, zoning ordinances, environmental legislation and other laws affecting antennas on roofs. Zoning and building codes are purely matters of local jurisdiction which under Federalism and the Tenth Amendment you may not preempt.

For example, building codes are imposed in part for engineering related safety reasons. These vary by region, weather patterns and building type, such as the maximum amount of snow and ice here in Michigan. If antennas are too heavy or too high, roofs collapse. If they are not properly secured they will blow over and damage the building, its inhabitants or passers-by.

The application of zoning principles is highly dependent on local conditions. These vary greatly state by state, from municipality to municipality and within municipalities. We

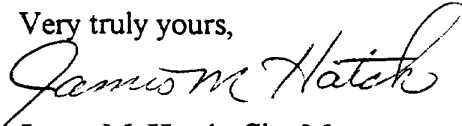
have successfully applied these principles and balanced competing concerns for the 35 years that we have been a city. Zoning has not unnecessarily impeded technology or the development of our economy, nor will it here. There is simply no basis to conclude that for a brand-new technology (wireless fixed phones) with a minuscule track record that there are problems on such a massive scale with the 38,000 units of local government in the U.S. as to warrant Federal action.

On the rights of way, local management of them is essential to protect the public health, safety and welfare. Congress has specifically prohibited you from acting in this area.

Finally, we are surprised that you suggested that the combined Federal, state and local tax burden on new phone companies is too high. The FCC has no authority to affect state of local taxes and more than it can affect Federal taxes.

For these reasons, please reject the proposed rule and take no action on rights of way and taxes.

Very truly yours,



James M. Hatch, City Manager
City of Walker

cc: Senator Carl Levin
Senator Spencer Abraham
Representative Vernon J. Ehlers
Commissioner Harold Furchtgott-Roth - Federal Communications Commission
Commissioner Michael Powell - Federal Communication Commission
Commissioner Susan Ness - Federal Communication Commission
Ms. Magalie Roman Salas - Secretary, Federal Communication Commission
Mr. Jeffery Steinberg - Wireless Telecommunications Bureau, FCC
Mr. Joel Tauenblatt - Wireless Telecommunications Bureau, FCC
International Transcription Services
Mr. Kevin McCarty - Assistant Executive Director, U.S. Conference of Mayors
Ms. Barrie Tabin - Legislative Counsel, National League of Cities
Mr. Lee Ruck - Executive Director, NATOA
Mr. Thomas Frost - Vice President, Engineering Services, BOCA International
Mr. Robert Fogel - Associate Legislative Director, National Association of
Countries